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FM AMEMBASSY KUALA LUMPUR
TO RUEHC/SECSTATE WASHDC 0219
INFO RUEATRS/DEPT OF TREASURY WASHINGTON DC
RUCPDOG/USDOC WASHDC
RUEHGV/USMISSION GENEVA 1522
RUCNASE/ASEAN MEMBER COLLECTIVE
RUCNISL/ISLAMIC COLLECTIVE

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SIPDIS

STATE PASS USTR - WEISEL AND JENSEN
STATE PASS FEDERAL RESERVE AND EXIMBANK
STATE PASS FEDERAL RESERVE SAN FRANCISCO TCURRAN
SINGAPORE PASS TO SBAKER
USDOC FOR 4430/MAC/EAP/J.BAKER
TREASURY FOR FINCEN, OASIA AND IRS
GENEVA FOR USTR

SIPDIS

E.O. 12958: N/A

TAGS: [ECON](#) [EFIN](#) [ETTC](#) [KTFN](#) [KCRM](#) [PREL](#) [PTER](#) [MY](#)

SUBJECT: TERRORIST FINANCE: MALAYSIA DINGED ON ILLICIT CASH COURIERS

REF: STATE 152088

11. Summary: This cable responds to reftel requesting information on cash couriers in Malaysia. The Financial Action Task Force Asia Pacific Group on Money Laundering (FATF/APG) conducted a Mutual Evaluation of Malaysia in February 2007. "Cross Border Declaration and Disclosure" of cash was the one area deemed non-compliant with the FATF's 40+9 Recommendations. The APG determined that, while Royal Malaysian Customs (RMC) has the authority to enforce existing laws on the import and export of cash and travelers' checks, in practice no effective enforcement mechanisms are in place. The Government of Malaysia recently established a task force to address the issue. The U.S. is engaged and has provided several training courses on combating money laundering since last September, two of which were specifically for detecting and prosecuting bulk cash smuggling operations. A third is planned for February 2008. End summary.

Laws on the Books

12. Under the Customs Act (CA) and the Exchange Control Act (ECA) the Royal Malaysian Customs (RMC) is empowered to seize money from:

-- a Malaysian resident carrying Ringgit and/or foreign currency notes, including traveler's checks, if the amount exceeds the permitted limit without approval by the central bank; and

-- a non-resident carrying foreign currency notes, including traveler's checks, if the amount exceeds USD10,000 equivalent and failed to declare or falsely declared it.

13. Under the CA, any person who fails to declare or falsely declares currency above the permitted amount, can be arrested and prosecuted, and the currency can be subject to seizure.

14. The CA stipulates a penalty of imprisonment not exceeding five years and/or fine not exceeding RM500,000 (equivalent to approx. USD 136,240) for making incorrect declarations and falsification of documents. Persons who are carrying out physical cross-border transportation of currency or bearer negotiable instruments that are related to money laundering or terrorism financing can be prosecuted and punished under the Anti-Money Laundering Act and/or Penal Code.

Reporting Requirements

¶15. The Exchange Control Notice of Malaysia 2006 was issued under the ECA, requiring resident travelers to obtain prior permission from the central bank to import or export Malaysian Ringgit notes exceeding RM1,000 (USD 303) and to export foreign currency notes, including travelers' checks, exceeding the equivalent of USD 10,000. Non-resident travelers are required to declare amounts above these same levels.

The Reality

¶16. However, in practice currency declarations are made to Immigration, not Royal Malaysian Customs. Upon arrival, Immigration returns the currency declaration card to the traveler without recording its data, then collects the card upon departure. No system is in place for storing or retrieving the data or for forwarding it to RMC. The RMC may request copies of currency declaration forms from Immigration once travelers have departed Malaysia.

¶17. The RMC conducts random checks on travelers; however such checks typically are not conducted in response to information obtained via the currency declaration process.

Investigations

¶18. The RMC does have powers to investigate and review non-declaration or false declaration of currency at the border

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(including the authority to investigate whether the currency notes/traveler's checks seized are related to money laundering or terrorist finance) before making recommendations to the Controller of Foreign Exchange. However, in practice this would only occur if RMC were to detect currency by random or targeted checks, rather than via information from currency declarations.

Prosecutions

¶19. Between 1998 and early 2007, RMC prosecuted 22 cases relating to currency smuggling. Authorities indicate that the majority of such cases resulted in convictions. Despite these very low figures over 10 years, there has been a marked increase in the last three years, with 18 cases of currency smuggling (out of the total 22 cases) having occurred since 2004.

Efforts to Improve

¶10. The U.S. offers training both bilaterally and multilaterally. In September 2006 the U.S. and Australia offered a joint training session to 24 Malaysians from Customs, Immigration, the police, Attorney General's Chambers and Financial Intelligence Unit (FIU) in detecting and prosecuting illicit cash smuggling operations. A regional follow-up course was offered in Manila in June 2007; ten representatives from Malaysia participated. A third course on bulk cash smuggling is being planned for February 2008. The Department of Justice offered a separate four-day anti-money laundering course in May 2007. The embassy maintains close contact with the police, the FIU, and other Malaysian regulatory and enforcement entities.

¶11. In response to the FATF/APG Mutual Evaluation, Malaysia established a task force to formulate action plans to achieve full compliance with Special Recommendation IX on cash couriers. The task force includes representatives of Royal Malaysian Customs, Immigration Department, Ministry of Internal Security, and the Central Bank. A representative of the central bank's Financial Intelligence Unit told econoff that, so far, the task force only has had some preliminary meetings to try to determine how best to bring

Malaysia into full compliance, but that she was confident that significant progress would be achieved within the next one year.

KEITH